



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 697

IN THE MATTER
OF
PAUL COELHO

DISPOSITION AGREEMENT

The State Ethics Commission and Paul Coelho enter into this Disposition Agreement pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On May 21, 2003, Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Coelho. The Commission has concluded its inquiry and, on August 14, 2003, found reasonable cause to believe that Coelho violated G.L. c. 268A.

The Commission and Coelho now agree to the following findings of fact and conclusions of law.

Findings of Fact

1. Coelho was hired as Norfolk's part-time local building inspector in July 1, 1999. On February 1, 2001, he became Norfolk's full-time building commissioner. From February 2001 until July 2, 2001, Coelho was the Norfolk building commissioner. As such, Coelho was a municipal employee as that term is defined in G.L. c. 268A, § 1, and subject to the provisions of the conflict-of-interest law, G.L. c. 268A.

2. As the building commissioner, Coelho was responsible for enforcing the building codes and zoning and planning regulations.

3. Intoccia Construction, Inc. is a construction company doing business in Massachusetts. In 2000-2001, Intoccia Construction had a large subdivision development under construction in Norfolk called Christina Estates.

4. As building commissioner, Coelho participated in permitting matters concerning Christina Estates.

5. In spring 2001, Coelho began looking for new employment. In mid June, Coelho and Intoccia Construction President Michael Intoccia reached an agreement

where Coelho would begin work for Intoccia Construction after he left town employment. Immediately thereafter, on June 18, 2001, Coelho submitted his resignation, effective July 2, 2001.

6. After Coelho accepted an employment offer to work for Intoccia Construction, he continued participating as building commissioner in permitting matters affecting Christina Estates. Specifically, on June 25, 2001, Coelho as building commissioner conducted a rough inspection and on June 27, 2001, an insulation inspection, both of which were required before the occupancy permit could issue to Christina Estates.

7. On July 3, 2001, Coelho began work for Intoccia Construction as project foreman for Christina Estates. For approximately five months, Coelho was involved as Intoccia Construction's foreman in matters in which he had participated as Norfolk Building Commissioner. Coelho's involvement included contacting the town to schedule several inspections concerning outstanding permits he had issued as building commissioner and representing Intoccia Construction during those inspections. Coelho received compensation from Intoccia Construction for these acts.

8. Coelho knew that this compensation was for services in connection with particular matters in which he had participated as building commissioner.

9. When Intoccia Construction learned that Coelho's work on the Christina Estates raised conflict of interest concerns, Coelho was immediately transferred to another construction project outside of Norfolk.

Conclusions of Law

10. Section 19 of G.L. c. 268A prohibits a municipal employee from participating¹ as such an employee in a particular matter² in which, to his knowledge, a business organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.³

11. The determinations made during the described in paragraph 6 above were particular matters.

12. Coelho, as building commissioner, participated in these particular matters.

13. Intoccia Construction was an organization with which Coelho had an arrangement concerning prospective employment.

14. Coelho had knowledge that as the developer of the property, Intoccia Construction had a financial interest in these determinations.

15. Accordingly, by so participating in these particular matters, Coelho violated § 19.

16. Section 18(a) of G.L. c. 268A prohibits a former municipal employee from knowingly acting as agent for or receiving compensation¹ from anyone other than the same municipality in connection with any particular matter in which the municipality is a party or has a direct and substantial interest, and in which matter he participated as a municipal employee.

17. Coelho became a former municipal employee when he left his position as building commissioner on July 2, 2001.

18. The decisions to issue building permits as described in paragraph 7 above concerning the Christina Estates were particular matters.

19. Coelho participated as building commissioner/building inspector in issuing those permits during 2000-2001.

20. Where the town decides whether and under what conditions to issue building permits, the town is a party to and has a direct and substantial interest in those decisions.

21. For the five months that Coelho served as project foreman, he was responsible for ensuring that the work was in compliance with outstanding permits he had issued as building commissioner/inspector. Intoccia Construction paid Coelho for his services. By knowingly receiving compensation for such services, Coelho received compensation from someone other than the town in relation to particular matters in which the town was a party and/or had a direct and substantial interest, and in which matters Coelho had participated as a municipal employee. Therefore, Coelho violated §18(a) by this conduct.

22. As part of his duties as foreman, Coelho, on Intoccia Construction's behalf, contacted the town to schedule several inspections concerning outstanding permits he had issued as building commissioner/inspector and represented Intoccia Construction during those inspections. By doing so, Coelho knowingly acted as agent for someone other than the town in relation to particular matters in which the town was a party and/or had a direct and substantial interest, and in which matters Coelho had participated as a municipal employee. Coelho by engaging in these acts of agency also violated §18(a) by this conduct.

Resolution

In view of the foregoing violations of G.L. c. 268A by Coelho, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Coelho:

- (1) that Coelho pay to the Commission the sum of \$3,000 as a civil penalty for violating G.L. c. 268A, §§ 19 and 18(a); and
- (2) that Coelho waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: April 30, 2004

¹ "Participate" means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, § 1(j).

² "Particular matter" means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, § 1(k).

³ "Financial interest" means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. See *Graham v. McGrail*, 370 Mass. 133 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. See *EC-COI-84-98*. The interest can be affected in either a positive or negative way. *EC-COI-84-96*.

⁴ "Compensation" means any money, thing of value or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another. G.L. c. 268A, §1(a).